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Dear Kevin

Re: MB Docket No. 02-230
(Digital Broadcast Copy Protection)

When we met several weeks ago concerning the Broadcast Flag I made the point that implementation of the Flag by the FCC is necessary to preserve ancillary markets for TV programs, including the emerging home video market for TV shows, and domestic and foreign syndication.

The attached article from BBC News, "'Napster effect' hits US shows," is a stark illustration of this problem from the point of view of foreign broadcasters.

Internet redistribution is a dark and menacing cloud on the DTV horizon. It is imperative that the FCC act to implement the Broadcast Flag and insure that consumers will not be denied high value programs on free, over-the-air DTV stations.

Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

cc: Catherine Crutcher Bohigian
Marlene H. Dortch

Warmly,
Jack



'Napster effect' hits US shows

Darren Waters
BBC News Online entertainment staff

On Monday I watched the latest episode of ER just a few days after it was broadcast in the United States.

But I was not in the US - I sat in front of my computer at home to watch the programme, which I had downloaded from the internet in the interests of research in about five hours.

The growing online availability of TV programmes, and films, is the latest threat to the entertainment industry still reeling from the effect of peer-to-peer programs, such as Kazaa and the now-defunct Napster.

After ER, I watched the latest instalment of thriller 24, a new episode of Frasier and a new episode of Friends, again all in the interests of research.

Almost all the programmes had been broadcast less than a day earlier in the US, many months before viewers in the UK and Europe will see them.

One friend who downloads drama The West Wing is more than a year ahead of episodes in the UK.

I used a program called BitTorrent to download the shows, a piece of software which allows multiple people to download the same programme at the same time.

It is not the only piece of software one can use, but uniquely BitTorrent allows multiple users to exchange the same information.

As I download Friends, another user is taking it from me, who in turn is providing it to someone else, and so on.

The effect is that the more people who are trying to access the programme, the easier and quicker it is to obtain.

'Speed issues'

But Jacqueline Hurt, a solicitor specialising in media law, said the programmes were being distributed without licence and therefore illegally distributed.

"Until now the effect of the internet on TV and film has been small because of the speed issues involved in downloading.

"But with the increased take up of broadband, and if the quality was acceptable, then this could be a big issue for broadcasters and programme-makers."

At the moment, the numbers using programs like BitTorrent are limited but if the practice were to take off then it could have widespread implications, she said.

But broadcasters, especially those in the UK, remain unaware of the growing trend of downloading programmes.

Yinka Adegoke, deputy editor of New Media Age magazine said: "No-one I know in the industry is aware of it and it is just not on the agenda."

Hit shows

"The value of a programme to broadcasters will go down if the programme is readily available on the internet," warned Ms Hurt.

Why should Channel 4 spend its money importing hit US shows when they have been available online for weeks, if not months?

Mr Adegoke said the TV industry, like the music industry before it, would be taken completely by surprise.

"If this goes from being a niche activity to the mainstream it will be virtually impossible to stop.

"This is exactly what happened to the music industry.

"Once the genie is out of the bottle you can't put it back in."

The range of shows is restricted at the moment to the biggest US shows and to programmes with loyal fan bases, such as science fiction.

A popular programme can take between five and seven hours to download, while a film can take twice as long and a more obscure programme up to a whole day.

But for broadband internet users this is no deterrent: it costs nothing more to stay online for 10 hours than five minutes so many Bit Torrent users leave their computers on overnight or all day.

BitTorrent itself does not advocate infringing copyright and the program can be used for exchanging any type of information, but the most popular is certainly TV shows and films.

The TV industry is already aware of many BitTorrent sites, and is closing them down as fast as it can find them.

But with web space so readily available it only takes a short time to put up a web page and link to the latest programmes.

Story from BBC NEWS

http://news.bbc.co.uk/go/pr/fr/-/1/hi/entertainment/tv_and_radio/3006619.stm

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